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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/893,291	06/27/2001	Stephen T. Isaf	1078 1010	4314

7590 08/10/2007  
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EXAMINER
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AKINTOLA, OLABODE

ART UNIT	PAPER NUMBER
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3691

MAIL DATE	DELIVERY MODE
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08/10/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	Application No. 09/893,291	Applicant(s) ISAF ET AL.	
	Examiner Olabode Akintola	Art Unit 3691	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 24 May 2007.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-22 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Claim Rejections - 35 USC § 103*

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 1-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Herz et al (USPAP 20010014868) ("Herz") in view of Duncan (USPN 6934692) ("Duncan") and further in view of Carter, III (USPN 5878400) ("Carter").

Re claims 1, 3, 11-15, 22: Herz teaches a system, corresponding program and method of facilitating trade, comprising the steps of: receiving an input price from a network client as input to a computer program at a network server (para 0003-0004); accessing via the computer program a plurality of preconfigured buyer profiles, each profile of the plurality of buyer profiles including at least the identification of a buyer, a delivery destination and a pricing factor, each pricing factor being assigned by the network client and associated by the network client with the

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respective identified buyer (para 0020 and 0005); configuring via the computer program a plurality of output prices, each output price being associated with one buyer profile of the plurality of buyer profiles, and each output price being a modification of the input price and reflecting a price adjustment affected by the pricing factor of the respective associated buyer profile (para 0020 and 0279); and confidentially distributing the plurality of output prices, including the step of distributing to the identified buyer associated with each buyer profile the output price associated with the respective associated buyer profile (para 0020 and 0279).

Herz does not explicitly teach accessing via the computer program a logistics database which includes at least costing information associated with shipping to delivery destinations and modification of price reflecting a cost of shipping to the delivery destination of the respective associated buyer profile. Duncan and Carter teaches a logistics database which includes at least costing information associated with shipping to delivery destinations and modification of price reflecting a cost of shipping to the delivery destination of the respective associated buyer profile (Duncan: col. 9, lines 37-57; Carter: Figures 1-5, col. 10, lines 44 through col. 11, lines 33). It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Herz to include these steps as taught by Duncan/Carter. One would have been motivated to do so in order to adjust the cost of shipping according to modes of transportation or location of the delivery destination.

Herz and Duncan do not explicitly teach receiving counter purchase price as an input to a computer program and converting counter purchase price to a counter sell price by reversing the

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configuring step. However, receiving counteroffer price from a buyer to a seller is old and well known in the art. It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Herz to include the step of receiving counter offer price from a buyer to a seller. One would have been motivated to do so in order to allow the buyer negotiate the purchase price offered by the seller. Also, since Carter teaches modification of price reflecting a cost of shipping and price adjustment affected by the pricing factor, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify Herz/Duncan to include a reverse configuring step in a negotiation system, such that a counteroffer from a buyer would readily reflect a price adjustment in the same manner the buyer received the offer with price adjustment. One would have been motivated to do this in order to avoid adjusting these prices manually by the participants to the transaction, thereby enhancing the functionality/effectiveness of the system.

Re claim 2: Herz teaches wherein the step of confidentially distributing includes the step of posting each output price at the server for confidential access by the buyer identified in the respective associated buyer profile (para 0020 and 0279).

Re claim 4: Herz teaches wherein each said buyer profile of said plurality further comprises product specifications unique to said buyer such that, when said seller identifies a product for sale, said buyer is selected to receive said product based on matching said product specification unique to said buyer (Abstract).

Re claims 5, 10: Herz teaches wherein each said output price is forwarded to a buyer associated with the respective buyer profile (para 0279).

Re claims 6-9: See claim 1 analysis, supra. Herz does not explicitly teach wherein said input sell price and counter sell price are provided in a recognized shipping term selected by said seller; wherein said input price is a free-on-board price. Duncan teaches wherein said input price is provided in a recognized shipping term selected by said seller; wherein said input price is a free-on-board price; wherein each said output price is provided in a recognized shipping term selected by said seller; wherein said delivered price is a cost-insurance-freight price (col. 9, lines 10-57). It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Herz to include these steps as taught by Duncan. One would have been motivated to do so in order to adjust the cost of shipping according to modes of transportation or location of the delivery destination.

Re claim 16: See claim 1 analysis supra. Herz/Duncan do not explicitly teach receiving a counter offer purchase price from at least one of the buyers. Official notice is taken that this feature is old and well known. It would have been obvious to one of ordinary skill in the art at the time of the invention to implement this feature for the advantage of possibly obtaining a better price and close the sale. See also claim 1 analysis, supra.

Re claim 17: See claim 1 analysis supra. Herz teaches wherein said step of generating a purchase price further comprises the step of introducing said sell price into a price configurator (para 0037, 0279).

Re claim 18: See claim 1 analysis supra. Herz teaches wherein said price configurator is an automatic pricing system that can convert an original sell price to an individual purchase price (para 0037, 0279).

Re claim 19: See claim 1 analysis supra. Herz teaches wherein said price configurator is an automatic pricing system that can convert an individual delivered price to an offer price (para 0037, 0279).

Re claim 20: See claim 1 analysis supra. Herz teaches wherein said step of generating an offer price further comprises the step of considering at least one of said buyer profile, logistics rate tables, and product specifications (para 0037, 0279).

Re claim 21: See claim 1 analysis supra. Herz teaches wherein said step of generating a purchase price further comprises the step of considering criteria specifically set by said seller (para 0037, 0279).

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

O'Neill et al (US 6219653) teaches a freight calculation system (abstract). O'Neill further teaches offers and counteroffers by sellers and buyers (col. 14, lines 30-47; col. 33, lines 48-67, col. 38, lines 10-59, figs. 15 and 19).

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Olabode Akintola whose telephone number is 571-272-3629. The examiner can normally be reached on M-F 8:30AM -5:00PM.



If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Alexander Kalinowski can be reached on 571-272-6771. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

OA



**HANI M. KAZIMI**  
**PRIMARY EXAMINER**